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November 20, 2023

VIA ECF W/ COURTESY COPY VIA FIRST-CLASS MAIL

The Honorable Nicholas G. Garaufis United States District Judge Eastern District of New York 225 Cadman Plaza East Brooklyn, NY 11201

> RE: United States ex rel. YNKDY-2 v. Shiel Medical Laboratory, et al, Civil Action No. 16-CV-1090

Dear Judge Garaufis:

I am one of the attorneys who represents the Relator in the above-referenced matter. On October 30, 2023, pursuant to the Court's briefing schedule entered on September 14, 2023, the defendants served their respective motions to dismiss the Relators' Third Amended Complaint pursuant to Fed. R. Civ. P. 12(b). Because the Court's Individual Rule IV.B.1 requires the parties to file the motions and responses as a bundle, the defendants' motions were not filed and do not yet appear on the docket.

The Court's briefing schedule gave the Relators until December 29, 2023 to file their opposition briefs. However, upon receipt of the defendants' motions, the Relators have elected to amend their complaint within 21 days as a matter of course pursuant to Fed. R. Civ. P. 15(a)(1)(B). These amendments address certain of the defendants' arguments. Accordingly, the Relators filed their Fourth Amended Complaint [#91] on November 18, 2023.

The Court's order today directed the Relators to inform the Court by tomorrow whether they intend to seek leave to file an amended complaint. As stated above, the Relators respectfully submit that Rule 15(a)(1)(B) allows them to file their Fourth Amended Complaint as of right, without leave of court, in response to a motion to dismiss under Rule 12(b).

We apologize for any confusion.

Respectfully submitted,